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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,068	09/27/2001	Ann Rhee	266/202	7381

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BINGHAM MCCUTCHEN LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

EXAMINER

WU, QING YUAN

ART UNIT	PAPER NUMBER
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2194

MAIL DATE	DELIVERY MODE
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08/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/967,068

Applicant(s)

RHEE ET AL.

Examiner

Qing-Yuan Wu

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-17,19-25,27,29 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-17,19-25,27, 29 and 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. Claims 1, 3-9, 11-17, 19-25, 27, 29 and 31-36 are pending in the application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/11/07 has been entered.

Drawings

3. Figs. 4A-4B and 5 are objected to because in Fig. 4A, "DATABASE PLAN 300" should read --DATABASE PLAN 550-- according to page 15, lines 1-5 of applicant's specification. In addition, on contrary to Figs. 4B and 5, Postman group was refer to by numeral 512 and Mail users was refer to as numeral 514 according to page 15, lines 6-11 of applicant's specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be

renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 17, 19-24, 29 and 36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. Claim 17 is a system claim directed to software alone without claiming associated computer hardware required for execution. Although a computer system is recited, the claimed system merely interacts with the computer system and does not include computer hardware. Claims 19-20 and 29 are dependent claims of claim 17 and do not support the hardware requirement for processing the system of claim 17, therefore they are rejected for the same reason. Claims 21-24 and 36 are rejected for the same reason. See MPEP 2107.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 3, 6 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Although a fourth and fifth resource consumer groups can be infer as various groups belonging to a different resource plan as disclosed in the Fig. 5 of applicant's specification, the relationship among the first and second groups with fourth and fifth groups was not described in the specification nor clarified in the outstanding claims, subsequently due to the lack of description, fourth and fifth groups can be any one of the groups belonging to the same resource plan (i.e. a third group) as first and second groups or to a different resource plan.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 3, 20 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms lacks antecedent basis:

- i. The prescribed value- claim 35.

- b. The following claim language is indefinite:
 - i. As per claim 3, it is uncertain whether “a first group of resource consumers” refers to “a first group” in claim 1, line 3 (i.e. if they are the same then “said” or “the” should be used and “the first group” must be used throughout all the claims). For examination purposes, they are treated as the same. Claims 5 (i.e. a first resource consumer group) and 11 are rejected for similar reason.
 - ii. As per claim 20, it is uncertain if is “the first resource consumer” that is being queued or their activity/request for resource that is being queue. For examination purposes, the limitation is interpreted in light of dependent claims 7, 12, 15 and 23 as the activity/request for resource that is being queue.

Claim Rejections - 35 USC § 102

- 11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 12. Claims 1, 5, 8-9, 13-14, 16-17, 27 and 31-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Sitaraman et al (hereafter Sitaraman) (U.S. Patent 6,430,619).
- 13. Sitaraman was cited in the last office action.

14. As to claim 1, Sitaraman teaches a method for quiescing resource consumer activity in a computer system, comprising:

preventing a first resource consumer of a first group from starting a new activity on the computer system based upon a resource plan, in which the resource plan comprises a limit on a maximum number of active sessions for the first group [CorpA, network max/abs max sessions, Figs. 3-4; groups, col. 5, lines 54-65; wholesale user, col. 3, lines 21-26; 66, Fig. 6; reject access, col. 6, lines 54-61]; and

allowing a second resource consumer to continue already-running activity on the computer system [CorpB, network max/abs max sessions, Figs. 3-4; col. 7, lines 4-9].

15. As to claim 5, Sitaraman teaches a method for quiescing resource consumer activity in a computer system, the computer system having a first configurable value associated with a first resource consumer group [CorpA, network max/abs max sessions, Figs. 3-4], the first resource consumer group comprising one or more resource consumers [abstract], the first configurable value representing a first number of active sessions that the first resource consumer group is allowed to have running on the computer system, comprising:

configuring the first configurable value to a quiescence value, the quiescence value being adapted to limit the number of newly active sessions for the first resource consumer group to zero (i.e. the scenario where the CorpA user exceeded the maximum sessions limit; ***In addition, applicant is directed to MPEP 2111.04 in regards to the patentable weight given to the intended result of the claim***), wherein all currently active sessions are allowed to continue, but no new sessions are allowed to become active [Figs. 3-4; col. 5, lines 21-26; 66, Fig. 6; abstract].

16. As to claim 31, Sitaraman teaches wherein the number of active session is limited not to exceed the limit [col. 5, lines 23-26].

17. As to claim 8, this claim is rejected for the same reason as claims 1 and 5 above. In addition, Sitaraman teaches replacing the first resource plan with a second resource plan [col. 5, lines 26-32 and 62-65; network max/abs max sessions], the second resource plan comprising a first resource consumer group and a second resource consumer group [CorpA, CorpB, Figs. 3-4].

18. As to claim 32, this claim is rejected for the same reason as claim 31 above.

19. As to claims 9, 27 and 33 these claims are rejected for the same reason as claims 1, 5 and 31 above.

20. As to claim 13, this claim is rejected for the same reason as claim 5 above.

21. As to claim 14, Sitaraman teaches wherein the computer system further comprises a second configurable value associated with a second resource consumer group [CorpB, Network max/abs max sessions, Figs. 3-4], the second resource consumer group comprising one or more resource consumers [abstract], the second configurable value being adapted to define a second number of active sessions the second resource consumer group is allowed to have running on the computer system, further comprising:

configuring the second configurable value to a value adapted to allow one or more active session from the second resource consumer group to run while the first configurable value is set

to the quiescence value (i.e. the scenario where the CorpB user does not exceed the maximum sessions limit) [Figs. 3-4; 76, Fig. 6].

22. As to claims 16 and 34-35, these claims are rejected for the same reason as claims 8 and 31 above.

23. As to claim 17, this claim is rejected for the same reason as claim 1 above.

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 3-4, 6-7, 11-12, 15, 20, 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitaraman as applied to claims 1, 8, 9, 13, 16 and 17 above.

26. As to claim 3, this claim is rejected for the same reason as claim 1 above. In addition, Sitaraman does not specifically teach a fourth group of resource consumers. However, Sitaraman disclosed a list identifying domains or customer groups [Figs. 3-4; col. 5, lines 41-41-43]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that the teaching of Sitaraman would have include multiple customer groups for consuming the available sessions provided by the communications network.

27. As to claim 4, Sitaraman does not specifically teach wherein the prevented activity is queued. However, it is well known in the art to queue un-serviced requests.

28. As to claim 6, this claim is rejected for similar reason as claim 3 above. In addition, Sitaraman teaches wherein the computer system further comprises a second configurable value associated with a resource consumer group [CorpB, Network max/abs max sessions, Figs. 3-4], the resource consumer group comprising one or more resource consumers [abstract], the second configurable value being adapted to define a second number of active sessions the resource consumer group is allowed to have running on the computer system, further comprising:

configuring the second configurable value to a value adapted to allow one or more active session from the resource consumer group to run while the first configurable value is set to the quiescence value (i.e. the scenario where the CorpB user does not exceed the maximum sessions limit) [Figs. 3-4; 76, Fig. 6].

29. As to claim 7, this claim is rejected for the same reason as claim 4 above.

30. As to claim 25, Sitaraman as modified does not specifically teach the limit on the maximum number of active sessions is zero. However, Sitaraman disclosed a max/abs max session value [Figs. 3-4; col. 5, lines 18-67]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that if the value of max session is set to zero for a particular group (i.e. CorpA), no consumers of that group will be

permitted to raise a connection since any request would exceed the maximum number of VPN sessions.

31. As to claim 11, this claim is rejected for the same reason as claim 3 above.

32. As to claims 12, 15 and 20, these claims are rejected for the same reason as claim 4 above.

33. As to claim 29, this claim is rejected for the same reason as claim 25 above.

34. Claims 19, 21-24 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitaraman as applied to claims 1, 8, 9, 13, 16 and 17 above, in view of Jones et al (hereafter Jones) (U.S. Patent 6,003,061).

35. Jones was cited in the last office action.

36. As to claim 19, this claim is rejected for the same reason as claim 17 above. Sitaraman does not specifically teach a mean for scheduling. However, Sitaraman disclosed subscribing for a level of VPN coverage [col. 5, lines 18-21] and permitting a user to raise a VPN session [col. 7, lines 6-7]. However, Jones teaches a scheduler for allocating the resource among resource consumers [Jones, col. 6, lines 8-17].

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37. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have modified the teaching of Sitaraman with the teaching of Jones, because the teaching of Jones enhances the teaching of Sitaraman by providing a resource managing or planning functionality for allocating disparate resources [Jones, processor time, hardware, software, col. 6, lines 14-17] among requesting consumers.

38. As to claim 21, this claim is rejected for the same reason as claims 1, 5 and 19 above.

39. As to claim 22, this claim is rejected for the same reason as claim 14 above.

40. As to claim 23, this claim is rejected for the same reason as claim 4 above.

41. As to claim 24, this claim is rejected for the same reason as claims 1, 8 and 19 above.

42. As to claim 36, this claim is rejected for the same reason as claim 31 above.

Response to Arguments

43. Applicant's arguments filed 6/11/07 have been fully considered but they are not persuasive.

44. In the remarks, Applicant argued in substance that:

- a. Sitaraman does not categorize the sessions into groups.
- b. Sitaraman does not disclosed placing a limit on the first group and a second limit

on the second group of sessions.

c. Sitaraman does not disclosed resource plan(s).

45. Examiner respectfully traversed Applicant's remarks:

46. As to point (a), the examiner respectfully disagree and submit that the claims do not recite group of sessions nor categorizing the sessions into groups, but rather, groups of users and a maximum number of sessions applied to the groups of users. The grouping of Sitaraman is in term of sessions each corporation or group of users within each corporation (i.e. wholesale users of CorpA and Corp B) is entitled to; For example group users in CorpA is entitled to X amount of sessions and group users in CorpB is entitled to another amount of sessions which clearly satisfied claims 1, 9 and 17 as recited [CorpA and CorpB, network max/abs max sessions, Figs. 3-4; groups, col. 5, lines 54-65; wholesale user, col. 3, lines 21-26; 66, Fig. 6; reject access, col. 6, lines 54-61].

47. As to point (b), please see point (a) above.

48. As to point (c), given the broadest reasonable interpretation of "resource plan" as described in applicant's specification as a "scheme for allocating a resource among a plurality of resource consumer groups" [Specification, pg. 8, line 26-pg. 9, line 2], Sitaraman's teaching of allocating VPN sessions among consumer groups CorpA and CorpB clearly satisfied the limitation [Figs. 3-4; col. 5, lines 54-65; col. 3, lines 21-26]

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49. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.

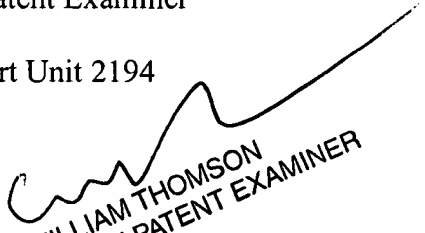
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Qing-Yuan Wu

Patent Examiner

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WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER